

PART C

INITIAL STATEMENT OF REASONS

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SECTION 971 “DEFINITIONS”

Specific Purpose of Regulation.

- (b) - The proposed amendment will clarify that dangerous weapons regulations are under the control of the Director of the Firearms Division, not the Director of the Division of Law Enforcement.
- (d) - The proposed amendment will remove the phrase “at retail” from the definition of the types of sales authorized by “machine gun licenses.”
- (f) - The proposed amendment removes reference to a repealed Penal Code section 12306.
- (r) - The proposed addition defines the term “permit location,” identifying the place of business authorized by DOJ when issuing a permit(s).
- (s) - The proposed addition defines the term “initial application,” identifying the circumstance under which this type of application can be used for acquiring a dangerous weapon permit/license.
- (t) - The proposed addition defines the term “renewal application,” identifying the circumstance under which this type of application can be used for acquiring a dangerous weapon permit/license.
- (u) - The proposed addition defines the term “term year,” identifying the time period for which a permit/license is valid as stated on its face.

Factual Basis.

- (b) - Firearms regulation are no longer under the control of the Division of Law Enforcement, but now under its own Firearms Division, necessitating the change.
- (d) - The removal of the term “retail” is necessary because it suggests that dangerous weapons could be purchased through normal retail outlets, which they cannot.
- (f) - Removal of reference to Penal Code section 12306 is necessary because that Penal Code section no longer exists.
- (r) - Defining the term “permit location” is necessary for clarity when reading other sections of these regulations.
- (s) - Defining the term “initial application” is necessary for clarity when issuing a dangerous weapon permit/license as described in these regulations.
- (t) - Defining the term “renewal application” is necessary for clarity when renewing a dangerous weapon permit/license as described in these regulations.
- (u) - Defining the term “term year” is necessary for clarity when discussing the renewal and issuance of dangerous weapon permits/licenses as described in these regulations.

SECTION 972 “GENERAL”

Specific Purpose of Regulation.

- (c)(1) - The proposed amendment removes the term “retail” in reference to the good cause definition because dangerous weapons are not sold in the typical retail sense. In exchange, law enforcement, military and licensed/permitted sales are referenced.
- (c)(2) - The proposed amendment adds, the previously unaccounted for, “manufacturing” to the good cause definition for fulfilling government contracts.

(c)(3) - The proposed amendment adds, the previously unaccounted for, “manufacturing” to the good cause definition for commercial motion picture or television production.

(c)(6) - The proposed amendment removes the term “assault” and adds the more inclusive term “dangerous” in reference to the types of weapons included in this good cause definition.

Factual Basis.

(c)(1) - Removing the term “retail” was necessary to eliminate the suggestion that dangerous weapons could be sold through typical retail outlets. In addition, it became necessary to list the types of sales that were permitted, including sales to law enforcement, military and dangerous weapon licensees/permittees.

(c)(2-3) - It was necessary to include “manufacturing” to the good cause definition for fulfilling government contracts because this function is allowable but not previously addressed in regulation.

(c)(6) - It was necessary to remove the restrictive term “assault” and add the more inclusive term “dangerous” because the specific regulation is not limited only to assault weapons but applies to the broader classification of dangerous weapons.

SECTION 972.1 “LIMITED TERM PERMITS/LICENSES; CONDITIONS”

Specific Purpose of Regulation.

(a) - The proposed amendment adds the term “dangerous” in reference to the types of weapons addressed in this section.

The repealed Penal Code section 12306 is removed from the Note section.

Factual Basis.

(a) - For clarity, the term “dangerous” was added in reference to the types of weapons addressed in this section.

The repealed Penal Code section 12306 was removed from the Note section.

SECTION 972.2 “RECORD KEEPING”

Specific Purpose of Regulation.

(a)(1-2)(A-B) - The proposed amendment removes the original subsection (a) and replaces it with an expanded section that more clearly identifies the obligation of permit/license holders to maintain current records of their annual inventory. The amendment also identifies the forms and reporting requirements the permit/license holder shall adhere to.

(b)(1-2)(A-B) - The proposed addition clearly identifies the reporting requirements of permittees/licensees authorized to demonstrate and sell dangerous weapons.

(c)(1-2)(A-B) - The proposed addition clearly identifies the reporting requirements of permittees authorized to conduct training, research & development, and/or manufacturing activities relating to dangerous weapons.

(d)(1-2)(A-B) - The proposed addition clearly identifies the reporting requirements of permittees authorized to use dangerous weapons in commercial motion picture/television/theatrical productions.

- (e)(1-2)(A-B) - The proposed addition clearly identifies the reporting requirements of permittees authorized to use manufactured dangerous weapons for use in commercial motion picture/television/theatrical productions.
- (f)(1-2)(A-B) - The proposed addition clearly identifies the reporting requirements of permittees authorized to collect and display destructive device collections.
- (g)(1-2)(A-B) - The proposed addition clearly identifies the reporting requirements of permittees authorized to repair and maintain dangerous weapons.
- (h)(1-2)(A-B) - The proposed addition clearly identifies the reporting requirements of military and law enforcement permittees authorized to use personal assault weapons in military and law enforcement sanctioned activities.
- (i) - The proposed addition informs permittees/licensees that records are subject to inspection by Attorney General representatives.

Factual Basis.

- (a)(1-2)(A-B) - It was necessary to strikeout the original subsection (a) because it did not prescribe adequate record keeping requirements. It was necessary to add a new series of subsections - (a)(1-2)(A-B) - to provide the reader a more detailed explanation of the record keeping obligations a permit/license holder must adhere to.
- (b)(1-2)(A-B) - It is necessary that DOJ be able to review the records of permittees/licensees who sell or demonstrate dangerous weapons to ensure that the permit/license holder is complying with the business practices for which the permit was granted.
- (c)(1-2)(A-B) - It is necessary that DOJ be able to review the records of permittees who conduct training, research & development, and/or manufacturing activities relating to dangerous weapons to ensure that the permit holder is complying with the business practices for which the permit was granted.
- (d)(1-2)(A-B) - It is necessary that DOJ be able to review the records of permittees who use dangerous weapons in commercial motion picture/television/theatrical productions to ensure that the permit holder is complying with the business practices for which the permit was granted.
- (e)(1-2)(A-B) - It is necessary that DOJ be able to review the records of permittees who manufacture dangerous weapons for use in commercial motion picture/television/theatrical productions to ensure that the permit holder is complying with the business practices for which the permit was granted.
- (f)(1-2)(A-B) - It is necessary that DOJ be able to review the records of permittees who collect and/or display destructive device collections to ensure that the permit holder is complying with the practices for which the permit was granted.
- (g)(1-2)(A-B) - It is necessary that DOJ be able to review the records of permittees who repair and maintain dangerous weapons to ensure that the permit holder is complying with the business practices for which the permit was granted.
- (h)(1-2)(A-B) - It is necessary that DOJ be able to review the records of military and law enforcement permittees who use personal assault weapons in sanctioned activities to ensure that the permit holder is complying with the practices for which the permit was granted.
- (i) - It is necessary to allow Attorney General representatives to view records to ensure that public safety is not being compromised by the permittee/licensee.

SECTION 972.4 “RETAIL SALES”

Specific Purpose of Regulation.

Title - The current title is labeled “Retail Sales”. This amendment will remove the term “Retail” to better clarify that dangerous weapons are not to be sold in a typical “retail” environment.

(a)(4) - This amendment adds the term “dangerous” for clarity in reference to the type of weapon that a dangerous weapons permit/license applicant can have in their inventory.

Factual Basis.

Title - It is necessary to remove the term “retail” from the title so that the reader is not misled to believe that dangerous weapons can be purchased through typical retail outlets.

(a)(4) - It is necessary to refer to the specific type of weapon, in this case “dangerous weapons,” in regulation to ensure that the reader does not believe that this subsection applies to all weapons in general.

SECTION 972.5 “TRAINING; RESEARCH & DEVELOPMENT AND/OR MANUFACTURING”

Specific Purpose of Regulation.

Title - The section title is amended to read “Training; Research & Development; and/or Manufacturing” so that the title provides greater clarity to the content of the section.

(a) and (a)(2) - Amending the original text of “training, research and development” to the more broad “training, research & development, and/or manufacturing” better clarifies the subject matter this section addresses.

Factual Basis.

Title - It is necessary to change the title of this section so that the reader better understands the content of the section.

(a) and (a)(2) - It is necessary to include “manufacturing” to the types of activities addressed by this subsection so that manufacturing can be adequately regulated by these regulations.

SECTION 972.6 “COMMERCIAL MOTION PICTURE/TELEVISION/THEATRICAL PRODUCTIONS”

Specific Purpose of Regulation.

(a) - This amendment adds the terms “theatrical” and “manufacturing” to better clarify the types of activities requiring documentation to determine bona fide necessity.

Factual Basis.

(a) - This amendment is necessary to regulate the types of documentation required to demonstrate a bona fide necessity for issuing a dangerous weapons permit.

SECTION 972.7 “COLLECTION OF DESTRUCTIVE DEVICES”

Specific Purpose of Regulation.

(a)(1) - This amendment clarifies that collectors of destructive devices are not required to publicly display their collection, but may be authorized to do so.

Factual Basis.

(a)(1) - This amendment is necessary to ensure that authorized collectors of destructive devices are not forced to publicly display their collections.

ARTICLE 5. SECURITY

Specific Purpose of Regulation.

Removing the word “requirements” from the title provides clarity as to what the article will address.

Factual Basis.

Removing the word “requirements” from the title is necessary for readability.

SECTION 974 “GENERAL COMPLIANCE”

Specific Purpose of Regulation.

Title - The title was amended to be more specific regarding the section content.

(a) - This amendment strikes a requirement that DOJ conduct investigations of all facilities and vehicles for compliance. Instead, it adds clarifying language that permittees/licensees shall only store in facilities, or transport in vehicles, that meet the security requirements.

(b-d) - This amendment details the information the permit/license holder will provide to DOJ, identifying the locations and vehicles the permit/license holder will be using in the course of authorized business. In addition, directions for updating the vehicle/location data and causes for permit/license revocation are detailed.

Note - Removes a reference to repealed Penal Code section 12306.

Factual Basis.

Title - The title change was necessary for ease of readability.

(a) - This amendment is necessary because DOJ will not be able to inspect every vehicle and/or every facility, but will instead provide detailed descriptions of what constitutes a compliant vehicle or facility in these regulations for the permit/license holder to adhere to.

(b-d) - This amendment is necessary so that DOJ will be able to identify and inspect, if necessary, any vehicle or location for its compliance with the security requirements. This amendment is also necessary to provide directions on updating the vehicle/location data, as well as identify causes of permit/license revocation.

Note - Removes a reference to repealed Penal Code section 12306.

SECTION 974.1 “SECURITY REQUIREMENTS”

Specific Purpose of Regulation.

Title was changed for clarity. This amendment removes language that obligated the applicant to have their complete security in within 6 months of completing the background investigation. Amendments make it clear that there is no longer a time requirement associated with complying with the security requirements for dangerous weapons, instead the applicant cannot conduct business in a facility or with a vehicle that is not security requirement compliant per regulation guidelines.

(a)(3) - The term “dangerous” is added in reference to dangerous weapons to clarify that these regulations do not apply to all weapons, only those defined as dangerous weapons.

(c)(1) - This amendment includes assault weapons on the list of dangerous weapons that have specific safe transportation requirements.

Note - Penal Code section 12276 is added to the authority and reference sections.

Factual Basis.

This amendment is necessary to ensure clarity, and to ensure that applicants only use facilities and vehicles that are safety requirement compliant.

(a)(3) - It is necessary to ensure that the regulations clearly apply dangerous weapons, and not all weapons in general.

(c)(1) - This amendment is necessary to ensure that assault weapons are transported with the same security considerations as all other dangerous weapons.

Note - This addition is necessary to verify that DOJ has authority and reference citations to write and enforce the regulatory changes.

ARTICLE 6 “APPLICATION FORMS, PROCESSING TIME, REPORTING REQUIREMENTS, RENEWALS, FEES, DENIALS, REVOCATIONS”

The terms “Application” and “Reporting Requirements” were added to the Article 6 title to better convey the contents of the article.

SECTION 975 “APPLICATION FORMS”

Specific Purpose of Regulation.

The term “application” was added to the title to clarify the types of forms being addressed in the section. (a-d) - Original form names and descriptions were struck from the regulations (subsections a-b). The newly added subsections (a-d) being proposed include a description of each form’s contents and their newly assigned form numbers. In addition, these amendments clarify that false statements made by the applicant on these forms are cause for denial or revocation.

Factual Basis.

(a-b) - Striking the original subsections (a-b) was necessary to develop new subsections that collected, in more detail, the information DOJ needs to adequately conduct a review of the applicant’s background.

SECTION 975.1 “PROCESSING TIME”

Specific Purpose of Regulation and Factual Basis.

Section was struck because processing time requirements (per section 15376 of the Government Code) have been repealed.

SECTION 975.2 “RENEWAL OF PERMIT/LICENSE”

Specific Purpose of Regulation.

- (a) - Nonsubstantive wording changes made for clarity.
 - (b) - Amendments clarify the penalties for late submission of renewal forms and fees.
 - (c) - This amendment strikes language that became obsolete with additions to the reasons for denial section elsewhere in these regulations.
 - (d) - This amendment clarifies the need for permittees and licensees to submit their inventory records annually.
 - (d)(1-4) - These subsections were deleted from the regulations for clarity purposes. These reporting requirements are more fully covered in the reporting requirements section.
- Note - The repealed Penal Code section 12306 was struck.

Factual Basis.

- (a) - Nonsubstantive wording changes made for clarity.

(b) - These amendments were necessary because previously there was only a penalty for not submitting the renewal fee 30 days prior to renewal. This language ignored the late submission of the renewal forms, and the newly implemented annual inspection fee. In addition, to allow permit/license holders that were more than 30 days delinquent to be eligible for a renewal, a secondary penalty and process was added. Finally, it was necessary to determine what penalty would apply to those who were more than 60 days delinquent in submitting the appropriate forms and fees.

(c) - This amendment was necessary to eliminate duplicate language. This amendment concentrates all application/renewal denial language in one section of the regulations.

(d) - This amendment is necessary to instruct permit/license holders to submit inventory records at the time they submit their renewal documents and fees.

(d)(1-4) - Deletion of these subsections was necessary so that all reporting requirements could be contained in one section.

Note - The repealed Penal Code section 12306 was struck.

SECTION 975.3 “FEES”

Specific Purpose of Regulation.

(a) - Current regulations suggest there will only be a single fee. This amendment clarifies that there may be multiple fees depending on the number of permits/licenses requested. Current regulations list fees based on fiscal year 1987/88. This amended fee structure will be based on statutorily authorized cost-of-living increases through fiscal year 2003/04. See STD 399 for calculations.

(a)(1)(A) - The proposed regulation will establish the New Application basic fee of \$377.00. Fee change is based on the statutorily authorized cost-of-living increase. See STD 399 for calculations.

(a)(1)(B) - The proposed regulation will establish the new fee for when more than one permit/license is applied for at the same time and for the same location. The new fee, \$22.00, is based on the statutorily authorized cost-of-living increase. See STD 399 for calculations.

(a)(2)(A) - The proposed regulation will establish the Renewal Application basic fee of \$126.00. Fee change is based on the statutorily authorized cost-of-living increase. See STD 399 for calculations.

(a)(2)(B) - The proposed regulation will establish the new fee for when more than one permit/license is applied for at the same time and for the same location. The new fee, \$22.00, is based on the statutorily authorized cost-of-living increase. See STD 399 for calculations.

(a)(3) - The proposed regulation will establish the Annual Inspection fees. Fee will be based on the permit/license holder's inventory volume. No inspection will be required if the applicant has held a dangerous weapon permit within the last 24 months. See STD 399 for calculations.

(a)(3)(A) - The proposed regulation will establish an Annual Inspection fee, for permittees/licensees with less than five weapons/devices, of \$165.00. See STD 399 for calculations.

(a)(3)(B) - The proposed regulation will establish an Annual Inspection fee, for permittees/licensees with five to twenty-five weapons/devices, of \$750.00. See STD 399 for calculations.

(a)(3)(C) - The proposed regulation will establish an Annual Inspection fee, for permittees/licensees with twenty-six or more weapons/devices, of \$1,500.00. See STD 399 for calculations.

(a)(3)(D) - Out-of-state permit/license holders with no California based permit location will be subject to a \$100.00 inspection fee. See STD 399 for calculations.

(b) - Inspection frequency is based on inventory volume.

(c) - Section 12306 was removed because it was repealed. Sections 12286 and 12287 were added because they permit DOJ to collect fees.

Authority - Section 12306 was removed because it was repealed. Sections 12286 and 12287 were added because they permit DOJ to collect fees. Senate Bill 1312 and Assembly Bill 2580 are referenced as providing DOJ authority to collect fees.

Reference - Section 12306 was removed because it was repealed. Sections 12286 and 12287 were added because they make specific the fees to be collected. Senate Bill 1312 and Assembly Bill 2580 are referenced because they make specific the fees to be collected.

Factual Basis.

Existing law requires every dealer, manufacturer, importer and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, to obtain a permit for the conduct of that business from the Department of Justice. The cost of this program is detailed in the STD 399 Economic and Fiscal Impact Statement and its attachments that are included in the rulemaking file of this regulatory action. Pursuant to Penal Code section 12305, license/permit fees may be increased at a rate not to exceed cost-of-living increases. Current regulations list fees based on fiscal year 1987/88. This amended fee structure will be based on cost-of-living increases through fiscal year 2003/04. No attempt is made to recoup losses since last increase.

Pursuant to Senate Bill 1312 and Assembly Bill 2580, the costs incurred by the Department for conducting inspections of dangerous weapon permit/license holders shall be covered by fees not to exceed the cost of implementing the program.

Existing law requires the Department to annually conduct an inspection, for security and safe storage purposes, to every person, firm, or corporation to whom a permit/license is issued for destructive devices. The fees are necessary to help offset the Department's projected ongoing annual expenditures of \$120,000.00, for agent costs associated to conducting these inspections. The costs include personnel (salaries, benefits) expenses. Detailed expenditure information is provided with the STD 399 Economic and Fiscal Impact Statement and its attachments that are included in the rulemaking file of this regulatory action. These regulations will establish a tiered inspection fee based on annual inventory of the permit/license holder. The smaller the volume, the smaller the fee. Revenues in the amount of approximately \$120,000.00 are projected (based upon 291 permit/license holders paying \$165.00 annually, 36 permit/license holders paying \$750.00 annually, 30 permit/license holders paying \$1,500.00 annually, and fewer than 15 out-of-state permit/license holders paying \$100.00 annually).

(a) - After reviewing fees charged and actual costs of processing these fees, this amendment became necessary to ensure that fees charged were in line with the statutorily authorized annual cost-of-living adjustments for the Department's budget in fiscal year 2003/04.

(a)(1)(A) - The cost-of-living increases necessitate that this fee be increased to \$377.00.

(a)(1)(B) - The cost-of-living increases necessitate that this fee be increased to \$22.00.

(a)(2)(A) - The cost-of-living increases necessitate that this fee be increased to \$126.00.

(a)(1)(B) - The cost-of-living increases necessitate that this fee be increased to \$22.00.

(a)(3) - Inspections are a necessity of renewing permits/licenses. These fees are based on the actual costs of conducting the inspections. Inspection fees must be based on inventory volume being inspected.

(a)(3)(A) - Permittees/licensees with less than five dangerous weapons in their inventory pay the lowest fee of \$126.00.

(a)(3)(B) - Permittees/licensees with five to twenty-five dangerous weapons in their inventory pay a fee of \$750.00.

(a)(3)(C) - Permittees/licensees with twenty-six or more dangerous weapons in their inventory pay the highest fee of \$1,500.00.

(a)(3)(D) - Out-of-state permittees/licensees with no California based inventory will pay a \$100.00 record review inspection fee.

(b) - The smaller the inventory volume, the less frequently it is necessary to conduct inspections.

(c) - DOJ will review fee structure and may, if necessary, make future fee adjustments.

Note - Sections 12286 and 12287 were added because they permit DOJ to collect fees for permits and they make specific the fees to be collected by DOJ permits.

SECTION 975.4 “DENIAL OF APPLICATION, REASONS, CONSIDERATIONS”

Specific Purpose of Regulation.

(b) - Clarification that the subsection applies to the denial of an initial application.

Factual Basis.

(b) - This amendment is necessary to ensure that this process of denial of an initial application is not confused with the processes associated to denial of a renewal application.

SECTION 975.5 “REVOCATION AND/OR DENIAL OF RENEWAL OF PERMIT/LICENSE, REASONS”

Specific Purpose of Regulation.

Title - nonsubstantive change for clarity.

975.5(a)(7) - Addition of certain misdemeanors as a cause for revocation of permit/license.

The repealed Penal Code section 12306 was removed from the Note section.

Factual Basis.

Title - nonsubstantive change for clarity.

975.5(a)(7) - Conviction of certain related misdemeanors is cause for revocation of permit/license.

The repealed Penal Code section 12306 was removed from the Note section.

Technical, theoretical, and/or empirical study, reports, or documents.

See STD 399 Economic and Fiscal Impact Statement attachments A and B.

Specific technologies and new equipment.

These regulations do not mandate the use of specific technologies.

Consideration of alternatives.

No reasonable alternative that was considered or that has otherwise been identified and brought to the attention of DOJ would be either more affective in carrying out the purpose for which the action is proposed, or would be as affective and less burdensome to affected private persons than the proposed regulations.

Business Impact.

These regulations will not have a significant impact on business.